IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1084 OF 2005

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Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's Orders	Court's or Judge's Orders

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Mr. A.G. Toraskar for the appellant.

Mr. A.S.Rao for respondents.

CORAM : ANOOP V. MOHTA,J.

DATED : 10th July, 2007

P.C.

1. Both the courts after considering the material on record come to a clear conclusion that the plaintiff failed to prove that he was and still is tenant of the suit premises, and in the result he further failed to prove that he is entitled for the alternative accommodation owned by the corporation.

2. The basic submission that some time in the year 1982, the plaintiff had applied for

correction of his name which is not considered by the respondent corporation or even by the Court. The plaintiff though lead evidence of his power of attorney, not called for record and or officer of the corporation to support his case. Even otherwise, mere filing of such application, itself is no way can be said to be a basic material to interefer with the findings of the facts concurrently arrived by both the courts. The basic contention that his name as Babu Shaikh and Babu Shabbir Ahmed is same and therefore, the action and application should have been considered from that point of view, has also no force as observed by the Courts that the plaintiff himself has shown his both name. Any way there is no question of reappreciation of evidence again in the second

appeal.

3. However, the plaintiff is at liberty to apply to the respondent for alternative accommodation, which respondent to consider in accordance with law.

4. Resultantly, the second appeal is dismissed.

[ANOOP V. MOHTA, J.]